IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 11TH DECEMBER 2007 / 20TH AGRAHAYANA 1929

WP(C).No. 34918 of 2007(F)

PETITIONER:

THOMAS .P., S/O.PATHROSE, KADAVIL HOUSE,
THOLIKKODU, MATHRA P.O,. PUNALUR.

BY ADV. SRI.JOHN VARGHESE

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY THE SECRETARY TRANSPORT DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.

2. REGIONAL TRANSPORT OFFICER, KOLLAM.

3. JOINT REGIONAL TRANSPORT OFFICER, PUNALUR.

BY GOVT. PLEADER SRI.GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.
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W.P.(C) NO. 34918 OF 2007 F
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Dated this the 11th day of December, 2007

J U D G M E N T

Petitioner submits that he is the registered owner of a Tipper lorry bearing registration No. KL-2D-9509. It is stated that the vehicle was stolen on 16/2/2002 and that the same was recovered only in February 2004. Thereafter, the vehicle was produced in court and was released to the petitioner only under Ext.P2 dated 25/6/04. Petitioner submits that thereupon he submitted Ext.P3 to the 3rd respondent offering to pay tax for the period subsequent to Ext.P2. Though Ext.P3 has been acknowledged on 20/7/04, he submits that there has not been any response to Ext.P3 and as a result thereof, he is not operating the Tipper since then. It is in this background, the present writ petition has been filed claiming that the respondents be directed to exempt him from payment of tax from 16/2/02 till date of acceptance of tax.

2. I heard the learned Government pleader also in the matter. It is submitted by the learned Government pleader that whatever be the justification that is now stated by the petitioner,

the fact remains that G form was not submitted in terms of Section 5 of the Kerala Motor Vehicle Taxation Act. It is submitted that whatever be the ground for claiming exemption, unless the procedure as laid down in Section 5 is complied with, the petitioner cannot claim exemption. In this case, it does not seem to be of dispute that the vehicle was stolen on 16/2/2002 and was released to the petitioner only in June 2004. Therefore, the petitioner ought to have made an application for exemption.

3. Learned Government pleader submits that even as of now, if the petitioner submits a proper application and G form along with original registration certificate, the 3rd respondent is still willing to consider the request of the petitioner for exemption. This response of the respondents is more than reasonable. Therefore, I direct that for the period upto 25/6/04, the date of Ext.P2, the petitioner shall, within two weeks from today submit G form along with the original registration certificate to the 3rd respondent, in which case, the 3rd respondent shall consider the request of the petitioner on merits.

4. Petitioner complains that in view of the non payment of tax, he is not in a position to ply the vehicle. Therefore, he seeks a direction to the respondents to permit him to ply the

vehicle, paying tax for the future. In any case, as tax has not been paid for the period even subsequent to 25/6/04 when he got custody of the vehicle, as an interim arrangement, petitioner has to clear those arrears first. Therefore, it is also ordered that if the petitioner clears the arrears of tax for the period subsequent to 25/6/04, petitioner will be permitted to ply the vehicle. However, the continued operation of the vehicle will depend upon the orders to be passed by the 3rd respondent in the application for exemption that the petitioner is directed to make in the previous paragraph of this judgment. If the third respondent grants exemption for any period for which the petitioner is paying tax, such excess payment will be refunded, if and when, occasion arises for the same.

Writ petition is disposed of as above.

ANTONY DOMINIC, JUDGE.

Rp